

**REMARKS**

Applicants hereby amend Claims 44, 60, 61, 66, 83, 85, 89 and 90, and add Claims 92-95. In view of the following discussion, Applicants respectfully request reconsideration of the pending claims, consideration of added Claims 92-95, and submit that all of the pending claims are in condition for allowance.

Notably, a number of claims have been withdrawn, but upon allowance of an elected parent claim, it is believed that all of the withdrawn claims would then be allowable.

More particularly as to paragraph 2 of the Office Action, Applicants note with appreciation the acknowledgment that the terminal disclaimer has been entered relative to the present application and the assignees' prior U.S. Patent No. 6 592 240 B2. With respect to this terminal disclaimer, it is noted that Claim 63 is rejected under obviousness-type double patenting over the same '240 patent in combination with another reference. Based upon the submission of the terminal disclaimer, Applicants believe that the double patenting rejection of Claim 63 should be moot and hence withdrawn.

As to the Section 112 rejections of the claims, Claim 61 is amended to address the comments contained in the Office Action. Similarly, Claim 83 also is amended to address the Examiner's comments. As to the specific objection to the mounting brackets, this language has been amended in Claim 83 in a manner which is believed more acceptable. In that similar language was also found in Claims 44 and 60, similar amendments are also made to these claims. Furthermore as to Claim 83, the claim has been reviewed and additional amendments are entered therein to further clarify the invention being claimed. Accordingly, withdrawal of the Section 112 rejections of Claim 61 and Claims 83-89 is requested.

It is noted with appreciation that Claims 83-89 would be allowable once this Section 112 rejection is overcome, and accordingly, allowance of such claims is also requested.

As to allowable dependent Claim 66, this claim is rewritten in independent form so as to include Claim 60 therein. Hence, Claim 66 also should be allowed.

As to the prior art rejections, Claims 44, 46, 49, 60-62, 90 and 91 are rejected as being anticipated by Grady. Of these claims, Claims 44 and 60 are independent claims.

First as to Grady, Applicants have determined that Applicants' invention was reduced to practice prior to the earliest filing date of the Grady reference. As such, Applicants are in the process of collecting suitable documentation and evidence in support of an affidavit swearing behind the Grady reference. If this application is taken up for review prior to the submission of such an affidavit, Applicants' undersigned representative respectfully requests contact from the Examiner to advise whether the additional arguments provided herein suitably overcome the Grady reference.

More particularly as to the Grady '629 patent, the claims are believed to patentably distinguish over this reference even if treated as prior art. Further supplementing the Applicants' prior arguments with respect to Grady, Applicants provide additional clarification of their position.

More particularly, both of Claims 44 and 60 require "a narrow beam light emitting diode" which is "aimed longitudinally of said light transmitting member to make said light transmitting member more visible". Such a light emitting diode "aimed longitudinally" in fact is not believed to present in Grady and not disclosed thereby.

More particularly, it is noted that the Grady disclosure specifically relates to the provision of two incandescent lamps 38 which are directed transverse to the longitudinal axis of the handle 12 and are provided in combination with the additional component, the reflector 68. While this patent

does include the phrase that the light is directed towards the handle 12, this direction is accomplished by the lamps 38 or 40 which are omni-directional so as to emit light sidewardly towards the reflector 68 which thereby reflects the light toward the handle 12. While LEDs are also disclosed as illumination sources in place of the incandescent lamps 38 and 40, it is submitted that these LEDs would be directed transverse to the longitudinal axis of the handle 12 and provided in combination with the reflector 68. Due to the positional relationship of the LEDs 38 and 40, such would not be a type of narrow beam light emitting diode which generates a narrow beam which would direct the light transverse to the handle 12 and would not suitably generate sufficient light which strikes the reflector 68. As discussed in further detail on page 14 of Applicants' prior Response, it is believed that the LEDs for Grady would need to be of a type which is equivalent to the omni-directional bulbs 38 and 40 and as such, a replacement LED would be a side-emitting type LED that emits substantial light sidewardly as well as axially. Such LEDs 38 and 40 would have the same physical orientation as the incandescent lamps 38 since Grady discloses the invention is the illumination sources in combination with the reflector 68.

Applicants' claimed arrangement distinctly differs. In particular, as previously argued, Claims 44 and 60 both require a narrow beam light emitting diode which is "aimed longitudinally". The lamps 38 and 40 of Grady or the replacement LEDs are not of a narrow beam light emitting diode and are not "aimed longitudinally". Applicants' position was addressed in the Office Action on page 10 thereof with the statement that the combination of the light source and the reflector 68 directs the emitted light beams toward the light transmitting rod 12. Applicants note that Claims 49 and 60 do not define the light as being directed towards the handle, but instead Claims 44 and 60 define something more. In particular, it is the light emitting diode itself that is

"aimed longitudinally" of the light transmitting member. With respect to the diode and where it is aimed, the conventional usage of the term "aimed" is that of an object having a lead point, such as the muzzle of a gun, which is directed in a specific direction. A light emitting diode has a central axis which extends through the forwardmost point of the diode and it is this axis that would define where the diode is aimed. Hence, the terminology "aimed longitudinally" indicates where the center axis of the diode is directed, and with respect to Claims 44 and 60, such center axis of the diode would be directed longitudinally of the light transmitting member and not transverse thereto as is the case in Grady. Hence, it is believed that the statements in the Office Action focus on where the light beams are reflected towards which is not the case of Claims 44 and 60. These claims define where the diode itself is aimed. As such, Claims 44 and 60 define features which are not disclosed, taught or suggested by Grady.

For these reasons, dependent Claims 46, 48 and 49 also are believed allowable. Additionally, Claim 49 also defines that not only is the diode aimed longitudinally, but also the self-focused light beam emitted therefrom is aimed into the free end of the light transmitting member which is believed to further distinguish from Grady.

As to independent Claim 60 which is believed allowable, dependent Claims 61 and 62 also are believed allowable.

As to Claim 90, it is respectfully submitted that such claim and the features thereof do structurally define the light emitting diode and the subject matter of Claim 90 does not merely constitute functional language. Rather, MPEP §2173.05(9) establishes that even functional language is acceptable if it structurally limits and defines the structural component. However, even then the language of Claim 90 is not believed to be functional language, but does specifically define the configuration of the narrow light beam emitted by the light emitting diode. This claim specifically defines the diode as having a central diode axis wherein the


light output of the light emitting diode on the central axis is reduced as specified. This is a structural limitation of the light emitting diode. Further, Claim 90 further clarifies that the orientation of the light emitting diode is such that substantially all of the light output of the light emitting diode is applied directly the opposed end of the light transmitting member. All of this language does in fact structurally define the light emitting diode and the light emitted thereby and should be considered. When properly considered, Claim 90 clearly is not disclosed by Grady.

Also, Claims 92-95 are hereby added. Claim 92 defines how the narrow light beam is directed directly from the light emitting diode to an imposing surface of the first end portion, which thereby precludes the arrangement of the light and reflector provided in Grady. Claim 93 also defines a similar arrangement using more detailed language which is believed further distinguishable from Grady. Claims 92 and 93 depend from Claim 44, and are believed allowable.

Claims 94 and 95 are identical to Claims 92 and 93 but depend from Claim 60, and are believed allowable for the same reasons as discussed above.

In view of the foregoing, all of the pending claims are believed patentably distinguishable from Grady even without the necessity of swearing behind such a reference.

Respectfully submitted,

  
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